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COMMISSION ON HUMAN RIGHTS

Fifty-sixth session

SUMMARY RECORD OF THE FIFTIETH MEETING

Held at the Palais des Nations, Geneva
on Friday, 14 April 2000, at 3 p.m.

Chairman: Mr. SIMKHADA (Nepal)

later: Mr. IBRAHIM (Sudan)

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The meeting was called to order at 3 p.m.

INDIGENOUS ISSUES (agenda item 15) (continued) (E/CN.4/2000/84, 85 and 86; E/CN.4/2000/NGO/11, 16, 37, 39, 83, 100, 120 and 128; A/54/487 and Add.1; E/CN.4/Sub.2/1999/18, 19 and 20; E/CN.4/Sub.2/AC.4/1999/4 and 6)

1. Mr. HOFFMAN (Aboriginal and Torres Strait Islander Commission), speaking also on behalf of the National Indigenous Working Group on Native Title and the Foundation for Aboriginal and Islander Research Action, said that international mechanisms provided an opportunity for indigenous peoples to draw the world's attention to the struggle they were conducting to have their rights recognized. The work being done to achieve a United Nations draft declaration on the rights of indigenous peoples and to establish a permanent forum for indigenous peoples was particularly useful in that regard. Furthermore, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance would be the occasion to highlight the impact of racial discrimination and economic, social, cultural and political inequality on indigenous peoples.

2. The right to self-determination was the fundamental principle underlying the draft declaration on the rights of indigenous peoples. Despite the fact that Australia was a highly industrialized country, its indigenous peoples faced problems very similar to those of other indigenous peoples, especially in the areas of health and employment. The Committee on the Elimination of Racial Discrimination had criticized Australia on several occasions and had drawn to its attention its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination. The Australian Government had moved further away from the process of reconciliation between indigenous peoples and other Australians, particularly by virtue of its attitude towards the question of the separation of Aboriginal children from their families. It was a matter of extreme concern that the Australian Government was not applying existing treaties to which it was a party and was ignoring the observations of the bodies charged with monitoring their implementation. The indigenous peoples of Australia had shown their good faith by their willingness to engage in a dialogue with the Australian Government but, given the latter's lack of cooperation and the continuing deterioration of their situation, they were relying increasingly on the United Nations to ensure recognition of their rights. The creation of a permanent forum for indigenous peoples seemed in that connection even more critical.

3. Ms. CUNNINGHAM (International Human Rights Law Group) said that the indigenous peoples of the Atlantic Coast of Nicaragua enjoyed a measure of autonomy, but that the provisions for implementing the law on autonomy had never been adopted. The statute of the autonomous regions of the Atlantic Coast of Nicaragua established rights to community lands by stipulating in particular that their exploitation must benefit the inhabitants of the Atlantic Coast in an equitable manner. Under the law those lands were inalienable, could not be sold, seized or mortgaged, and were imprescriptible. The 1995 constitutional reform guaranteed autonomy and laid down that authorizations for the exploitation of natural resources had to be approved by the Autonomous Regional Council. However, there was no law delimiting community lands, and some of the traditional lands were conceded to private investors for the implementation of big development projects or exploited by farmers from other regions.

4. Consequently, the Commission should invite the working group on a draft United Nations declaration on the rights of indigenous peoples to complete its work quickly, support the process of drawing up the American declaration on indigenous peoples and recommend to Nicaragua that it should consider ratifying ILO Convention No. 169, to ensure that in the consultation process on delimiting community lands full account was taken of the rights of indigenous peoples, and effectively to protect the rights of indigenous peoples to their traditional lands.

5. Mr. BRANCH (International Educational Development) said that his organization had long been involved in the efforts being made to end the civil war in Chiapas and the grave human rights violations perpetrated by Mexico's security forces against the indigenous people of that region, who were struggling for justice and autonomy under the leadership of the Zapatista Army of National Liberation (EZLN). Recent visits to Chiapas, in particular by the United Nations High Commissioner for Human Rights, had led to two main recommendations, namely, the need to end the official indulgence enjoyed by paramilitary groups and the renewal of talks between the Mexican Government and EZLN.

6. The need for the demilitarization of Chiapas was clear: as well as 70,000 federal troops there were at least 15 paramilitary organizations threatening, detaining, torturing and murdering EZLN sympathizers, often in cooperation with State security forces. Since 1999 the human rights situation had markedly deteriorated: Government troops and paramilitary units had attacked numerous localities and recent acts of violence included the summary execution of four indigenous men. The resumption of dialogue was blocked by the duplicity of the Mexican authorities which had not implemented the San Andrés Accords of 1996 and, in their 1999 proposal for settling the conflict, had not even mentioned the presence of the army in Chiapas.

7. The proposed technical assistance programme between the United Nations High Commissioner for Human Rights and Mexico was a step forward provided that it was effectively implemented. The Commission should express its support for a needs evaluation mission to establish the terms of the agreement. Mexican NGOs should also be involved in the commencement of the programme; there should be further visits by rapporteurs; and an independent expert on Mexico should be appointed. Those measures, along with the demilitarization of Chiapas and the fulfilment of the San Andrés Accords would enable a just and lasting peace to be established in the region.

8. MR. GIMBERNAT (Association for Defence and Promotion of Human Rights) said that more than 20,000 inhabitants of Chiapas had been chased off their land. The 1995 law on dialogue, reconciliation and peace in dignity had not produced the results expected since the Mexican Government had decided to solve the problems of Chiapas through violence. The United Nations High Commissioner for Human Rights had requested the Mexican Government in vain to reduce its military presence and resume dialogue. Paramilitary groups were acting with full impunity and the Special Rapporteur on extrajudicial, summary or arbitrary executions had links between those groups and the authorities with regard to the massacre at Acteal. The indigenous populations saw their lands overrun, their crops laid waste and their natural resources destroyed; they could not move freely on their own territory and were victims of arbitrary arrest, torture, maltreatment and looting.

9. In Colombia, the native populations living near the Atrato river in the department of Choco were threatened by large-scale projects and forest exploitation. They had started a process to get their rights to their own territory recognized, but that had unleashed exactions on the part of paramilitary groups which blocked supplies of foodstuffs, destroyed localities and expelled thousands of people. The authorities were accomplices in those actions, which amounted to genocide.

10. In the Alto Bío-Bío region of Chile, about a hundred Mapuche-Pewenche families had been threatened by a dam construction project which would involve flooding their territory and endangering their survival and culture. The procedure for authorizing the construction work had been sullied by all sorts of irregularities.

11. The Commission should call on Mexico and Colombia to put an end to the activities of paramilitary groups and on Chile to launch an inquiry into the abuses committed in Alto Bio-Bio; it should also ask all States to examine the international investments of transnational companies located on their territories in order to determine whether some of them were directly or indirectly linked to violations of the rights of indigenous peoples.

12. Mr. CHAKAMA (Asian Buddhist Conference for Peace) said that Governments were using peace processes as a cover for committing more human rights abuses. The example of the Chittagong Hill Tracts in Bangladesh was a striking one: three years had passed since the signing of the Peace Agreement and none of the problems had been resolved. The laws voted in Parliament were contrary to the Peace Agreement, military camps had still not been dismantled and Jumma refugees were still living in makeshift camps as settlers and security forces continued to occupy their lands.

13. The Asian Buddhist Conference for Peace welcomed the establishment of the Land Commission to resolve land disputes in the Chittagong Hill Tracts, and the appointment on 8 April 2000 of Judge Abdul Karim as its Chairman. However, there were concerns as to the real intentions of the Government. It had waited for three years before establishing the Commission, and general elections were due soon. Perhaps the intention was to pass responsibility for settling the problem to the Government which would come into power in the middle of 2001.

14. It was worth recalling that, after the restoration of democracy in Bangladesh in 1990, all local councils had been dissolved, with the exception of the Chittagong Hill Tracts district councils, which were still run by people nominated by the ruling party in the region. It was impossible to talk of democracy in the Chittagong Hill Tracts since the Government refused to hold elections there. Furthermore, the human rights of the Jummas were still being violated, and the fact that the Government was refusing to identify those responsible for the violations showed that the situation was not improving. The Asian Buddhist Conference for Peace drew attention to the Naniachar killings, which had cost the lives of 40 Jummas in 1993. The United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions had stated in his report to the Commission on Human Rights at its fifty-first session that the Government of Bangladesh had never supplied a detailed reply to his questions, and had not yet made public the report of the commission of inquiry into the killings.

15. Given the widespread violations of human rights and the failure to implement the Peace Agreement, the Asian Buddhist Conference for Peace considered it shameful that the Prime Minister of Bangladesh had received the UNESCO Peace Award.

16. Mr. Ibrahim (Sudan) took the Chair.

17. Ms. GABRIEL (Aliran Kesedaran Negara) said that indigenous peoples in Malaysia continued to be the victims of so-called development activities. Their customary rights to land were violated and they were the victims of enforced displacement. The police had become infamous for taking no account of complaints lodged by indigenous people.

18. In Sarawak, for example, 19 indigenous people - one of whom was an adolescent who had been tortured - were being detained under harsh conditions. They were awaiting trial for the "murder" of four members of an armed group - apparently acting on behalf of a company - which had tried to force them off their land. The group had made a number of incursions into the village, but the police, despite complaints lodged by villagers, had not acted. The police investigation into the murder in question was dubious. There were similar incidents involving Penan communities living in the interior of Sarawak who had for a long time been the victims of police threats and aggression, as well as other incidents involving the Jahai community in Kelantan.

19. When large-scale projects were being implemented, indigenous communities were often forced to relocate in areas where they had insufficient resources for making their livelihood. That was what had happened when the dams were built at Bakun and Sungai Selangor. The Government had not seriously considered other water-saving strategies which were more respectful of the environment.

20. In some regions, indigenous peoples had lost their right of free movement: Sarawak activists had had their passports revoked so that they could not travel abroad to plead their case. Their supporters had been subjected to the same harassment; several activists in west Malaysia had been banned from travelling to Sarawak.

21. Aliran Kesedaran Negara therefore urged the Commission and its members to support the call for an immediate and impartial investigation by a royal commission of the complaints of indigenous communities in Malaysia concerning land encroachment and forced displacement. It also urged that firm action be taken against companies which used gangsters to force indigenous people off their land and that the conduct of the authorities concerned should also be investigated.

22. Mr. BOM (International Peace Bureau) said that the indigenous peoples of Burma had been systematically deprived of their right to freedom of worship by the military regime. In defiance of the Universal Declaration of Human Rights, which stated that everyone was free to practise the religion of his choice, the Burmese authorities were persecuting the country's Christian and Muslim minorities by implementing policies aimed at imposing a single religion, language and race. In July 1999, the United States Department of State had released a statement denouncing the religious persecution of Christians and Muslims in Burma. The authorities had immediately issued a blanket denial and had done nothing to change their practices.

23. There had been many recent examples of persecution of Chin Christians. Some had been arrested during a religious service, with the army justifying its action by stating that there was a standing ban on any gathering of more than five persons. Others had been compelled to take part in the construction of Buddhist temples without payment, while the construction of churches and Christian schools was banned. Others had been the victims of physical violence, and no action had been taken against the offenders although complaints had been lodged.

24. The International Peace Bureau requested the Commission on Human Rights to intervene, especially by ensuring that the question of violations of indigenous peoples' rights was included in a resolution on the situation of human rights in Burma.

25. Mr. SANCHEZ (American Association of Jurists) condemned the discrimination of which the Quechua, Aymara, Aguaruna and Ashaninka peoples were victims in Peru, where they represented more than 40 per cent of the population. Although the rights of indigenous peoples were recognized in the Peruvian Constitution and in ILO Convention No. 169, ratified by Peru in 1995, it seemed that violations of those rights had increased recently. Bilingualism was not respected, the regime for protecting community land was not applied and the commission for indigenous affairs had still not been set up. Furthermore, poverty and child mortality rates were much higher among indigenous people than in the rest of the Peruvian population. The American Association of Jurists therefore called for the legal recognition of the community lands of indigenous peoples, the establishment of the commission for indigenous affairs, promulgation of the law on indigenous people and the quashing of sentences passed on indigenous people in trials where normal procedures had not been respected, judges had been masked and the right to defence flouted.

26. A mission of the American Association of Jurists to Ecuador had reported a very high level of unemployment, concentration of wealth in the hands of a few, paralysis of the productive sectors and the diversion abroad of financial resources as a consequence of generalized corruption of the administration. Ecuadorians, and particularly indigenous Ecuadorians, had to put up with the effects of that disastrous situation which was due to the hegemony of the dollar and unrestrained implementation of the neo-liberal model. Whereas the Ecuadorian authorities should do whatever was necessary to recover funds which had been illegally transferred abroad and prosecute those responsible, those who stood up against the prevailing injustice and corruption were subjected to repression. The Ecuadorian branch of the American Association of Jurists had, during a human rights seminar held in Quito in March, transmitted to the Government a proposed amnesty law on behalf of civilians who had been charged and members of the military who had been held following the popular uprising in January. The American Association of Jurists renewed its call for an amnesty and urged the Government of Ecuador to change its economic policy, which ran the risk of completely destabilizing the country.

27. Mr. Simkhada (Nepal) resumed the Chair.

28. Ms. CAHUACHE (Latin American Human Rights Association) said that she was the Chairperson of the Organization of Indigenous Peoples of Colombian Amazonia (OPIAC), which represented 58 peoples each with their own language, cultural heritage and values. On behalf of the traditional authorities of those peoples, she denounced the destruction of which the indigenous peoples were victims as a result of the armed conflict in Colombia.

29. The indigenous peoples of Colombian Amazonia constituted an extremely vulnerable group which was exposed to continual discrimination in addition to the devastating effects of the armed conflict. All those involved in the conflict were committing grave violations of the rights of indigenous peoples and of international humanitarian law. They were causing massive displacements of population, depriving indigenous communities of their ancestral and sacred lands, involving women and children in the fighting, forcibly enrolling young people and carrying out indiscriminate attacks on indigenous communities whose members were harassed and used as human shields. Massacres, preceded by disappearances and torture, were also widespread. Forced disappearances and the assassination of hundreds of traditional chiefs and officials were depriving the indigenous peoples of their structures and collective landmarks. The territorial autonomy of indigenous peoples, which was recognized in the Constitution, was violated by all parties to the conflict. Their lands, which were the theatre of combat, were dotted with anti-personnel mines. The indigenous peoples were deprived of their freedom of movement and could no longer cultivate their land. They were also unable to continue with their customs and ancestral practices since the combatants were also attacking their culture and beliefs.

30. OPIAC and the Latin American Human Rights Association wished to alert the international community and appealed to all parties to the armed conflict in Colombia to respect the lives, integrity and territorial autonomy of the indigenous peoples of Amazonia.

31. Ms. GIRARDIN (Movement against Racism and for Friendship among Peoples) condemned the extermination of indigenous communities in Colombia as a consequence of the armed conflict which was plaguing the country and of the mistaken economic policies being applied there. Colombia had 82 indigenous peoples who had suffered more than 500 years of persecution. Now their survival was threatened not only by the armed activities of guerrilla and paramilitary groups, the army and drug traffickers but also by other factors including infrastructure development and the exploitation of natural resources such as oil. The indigenous peoples were being driven into inhospitable areas, decimated by disease and abandoned by society.

32. Some indigenous leaders, particularly of the Macaguana, Emberá, Inga, Mandi, Piunave, Kurripako and Cucura peoples, had lost their lives in horrifying circumstances. The constant threats, the fighting and the economic exploitation of territories had caused displacements of the Bocas del yí, Miriti, Cachivera, Puerto Corroncho, Puerto Vaupes, el Recurdo, Mitu Cachivera, Valencia Cano, 13 de Junio, el Guamal, el Criva, Seima, Cucura, Pueblo Nuevo and Muritinga indigenous communities. Some peoples were even at risk of disappearing completely. Count had been lost of the number of selective killings, massacres, cases of torture and forced disappearances.

33. The Movement against Racism and for Friendship among Peoples called on the Commission on Human Rights to do something about the situation and to take account of the proposals made by the indigenous organizations, which were seeking peaceful coexistence and development on a human scale and on a more interdependent community basis.

34. Mr. HENRIKSEN (Saami Council) emphasized the importance of the United Nations draft declaration on the rights of indigenous peoples. Recalling that the General Assembly had presented the adoption of such a declaration as one of the main objectives of the International

Decade of the World's Indigenous Peoples (1995-2004), he noted with concern that the progress which had been made in that direction had been very limited. At its last session, the working group on the draft declaration had not managed to adopt any of its draft provisions. After five years' work, only 2 of the 45 articles envisaged had been adopted; one concerned the right to a nationality and the other equal rights and freedoms for male and female indigenous individuals. The debate in the working group was admittedly becoming increasingly open, and that gave grounds for hoping that tangible results might be achieved in the near future. The Saami Council urged all Governments to do what they could to ensure that the draft declaration was completed rapidly and adopted as soon as possible.

35. The establishment of a permanent forum for indigenous peoples in the United Nations system was another important objective of the Decade, since it would greatly contribute to strengthening international cooperation for the benefit of indigenous peoples. The Saami Council welcomed the very productive second session of the ad hoc working group on the permanent forum which had been held in February 2000 and the fact that a draft resolution was to be submitted on the matter at Denmark's initiative. The Saami Council urged the Commission to reach a consensus on the matter at its present session so that the Economic and Social Council could be seized of it without delay.

36. The forum should be a subsidiary organ of the Economic and Social Council and be composed of an equal number of governmental and indigenous representatives. The Saami Council was ready to accept the proposal that members would serve in their personal capacity as independent experts, even if it would have preferred to have the indigenous members appointed as representatives of the indigenous peoples. The total number of members should be at least 16, given the cultural and geographical diversity of indigenous peoples. The forum should hold annual sessions of at least 10 days and have a separate secretariat. In that connection, it was a matter of concern that the draft resolution contained no provision regarding the secretariat, because the forum's mandate went beyond questions concerning human rights and it would therefore not be appropriate to assign its secretariat function to the Office of the United Nations High Commissioner for Human Rights.

37. In conclusion, the Saami Council supported the proposal to appoint a special rapporteur on indigenous issues, and was pleased to note that the idea was now receiving broad support within the Commission.

38. Mr. BHENGRA (International Workgroup on Indigenous Affairs) said that for 30 years indigenous peoples had been trying to have their voices heard in various intergovernmental organizations, and particularly the United Nations, condemning violations of their civil, political, economic, social and cultural rights and participating in the activities of the organizations, as well as in major international conferences and their follow-up mechanisms. Indigenous peoples were directly affected by all the decisions made by those organizations, but they also needed an organ or mechanism within the United Nations system which would focus on addressing the myriad issues and rights of indigenous peoples. That was why they supported the establishment of a permanent forum for indigenous peoples and a draft declaration on the rights of indigenous peoples, which States should be encouraged to adopt.

39. At its session in February 2000, the ad hoc working group on the permanent forum had given lengthy consideration to the structure and functioning of such a body. Indigenous peoples wanted it to be at the level of the Economic and Social Council and its mandate as broad as possible. It should be financed from the United Nations regular budget and be composed of an equal number of representatives from Governments and from the indigenous peoples; there should be at least 16 members, in consideration of the geographical areas where indigenous peoples lived. Open participation by members of indigenous communities in its sessions should be allowed.

40. The International Workgroup on Indigenous Affairs appealed to Governments to do what they could to meet those demands and was convinced that the international community had everything to gain by allowing indigenous peoples to have their place at the table. Conflicts could be resolved and justice could reign only if those directly affected had their say.

41. Mr. MAMANI (Indian Council of South America) recalled that delegations to the World Conference on Human Rights in Vienna in 1993, recognizing that indigenous peoples were the only peoples in the world not to be represented at the international level, had agreed to establish a permanent forum for them. That recognition was the foundation stone of the forum. But there was a risk of it being nothing but an international bureaucratic body made up of representatives of States and of indigenous people appointed by the same States, and of having no power of decision at the international level.

42. During the working group's last session it had been stated that the forum would not be at the level of the Economic and Social Council but answerable to it. If that was the case, it would not be composed of representatives of indigenous peoples but of indigenous experts in their personal capacity who could be appointed by their Government and would not necessarily have the backing of the indigenous people themselves. It was essential that the indigenous peoples should be duly represented within the forum and that it should have the widest possible mandate which would enable it to intervene in the continuing massacres of indigenous peoples. His organization rejected any other name for the body but that of "permanent forum for indigenous peoples". Calling it a "forum for indigenous populations" would be to deny the specificity of indigenous peoples and their existence by putting them on the same footing as the various social groups which existed in each and every State. Calling it a "forum for indigenous issues or indigenous affairs" would amount to the same thing and also give the impression that it might concern isolated individuals.

43. In conclusion, he noted that the draft resolutions submitted to the Commission were the result of unilateral agreements reached between Governments without consulting indigenous representatives and therefore having no value.

44. Mr. LITTLECHILD (International Organization of Indigenous Resource Development), speaking also on behalf of the International Treaty Four Secretariat, was very concerned to note that the inter-sessional working group on the United Nations draft declaration on the rights of indigenous peoples had still not managed to adopt the articles of the draft declaration by consensus and that some States were seeking to change the basis of its work away from Commission resolution 1995/32. He also wondered why the Commission had not placed on its

agenda consideration of the final report of the Special Rapporteur, Mr. Alfonso Martínez, on his study on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1999/20).

45. On the other hand, it was encouraging to note that the inter-sessional working group on a permanent forum for indigenous peoples had made progress and that there was a consensus on the establishment of such a body and on the extent of its mandate. He referred the Commission to document E/CN.4/AC.47/2000/CRP.1, which presented the recommendations of the Indigenous Caucus, and recalled in particular that the organizations on whose behalf he was speaking had defended the position that treaty rights were human rights and wanted treaties, lands and resources to be specified in the mandate of the permanent forum. Noting, on the other hand, that civil and political rights were not included in the mandate, they interpreted the expression "human rights" as including the right to self-determination. They urged the Commission to consider their recommendations and their preference for the term indigenous "peoples". The statement made on the subject by the Canadian delegation, which had referred to the Charter of the United Nations, whose text began with the words "We, the peoples ...", was encouraging. The permanent forum must be established with a broad mandate and sufficient resources to meet for at least 10 days every year.

46. Mr. MANCHINERY (World Wide Fund for Nature, WWF), speaking on behalf of the Coodenção das Organaçoes Indigenas da Amazonia Braziliera (COIAB), said that the concepts best able to guarantee the aboriginal rights of indigenous peoples were "indigenous peoples", "territories" and "self-determination", since they allowed for equality of rights with the rest of the population. It was to be regretted that certain States used such terms in order to deny those rights. The establishment of a permanent forum for indigenous peoples was vital; neither the latter nor WWF should "comprise experts serving in a personal capacity" as stated in paragraph 26, subparagraph 1 (c) of the report of the inter-sessional ad hoc working group (E/CN.4/2000/86). The indigenous members of the forum should be elected by their peoples and organizations. Moreover, contrary to what was stated in paragraph 36 of the Spanish version of the same document, the use of the expression "poblaciones indígenas" (indigenous peoples) in the name of the forum was not favoured by all indigenous representatives.

47. It was the hope of COIAB that the Commission, at its current session, would approve the draft declaration on the rights of indigenous peoples and recommend that the Economic and Social Council should submit the text to the General Assembly for adoption. It also hoped that the Commission would urge States to take account of the proposals of indigenous peoples regarding language and that it would recommend the creation of a permanent forum for indigenous peoples. COIAB also requested that the criteria used to select the indigenous peoples who would make up the forum should be respected. Furthermore, it supported the proposal of the Observer for Switzerland that the forum should have its headquarters in Geneva. Lastly, illustrating the conditions in which certain indigenous peoples actually lived, he described how indigenous peoples in Brazil were being killed off with impunity.

48. Mr. ARIAS GARCIA (Asociacion Kunas Unidos por Napguana), speaking also on behalf of the International Alliance of Indigenous and Tribal People of the Tropical Forests, said that it was regrettable that the Commission was still not determined to make concerted efforts to resolve the problems encountered on a daily basis by the most vulnerable, most marginalized and

poorest of all, namely, indigenous peoples. Their situation was extremely difficult, as in Colombia where they were threatened by unfair development, and also in many other countries in all continents. Worse still, many of them were disappearing from the face of the earth as a result of widespread indifference. A Special Rapporteur should therefore be appointed as a matter of urgency to make a study of the situation of indigenous peoples until such time as the permanent forum could take matters in hand. Moreover, the Office of the High Commissioner for Human Rights - with the participation of Governments, specialized agencies, NGOs and indigenous peoples - should without delay conduct an in-depth and objective appraisal of the first part of the International Decade of the World's Indigenous People because, despite the efforts of certain United Nations bodies, such as the United Nations Voluntary Fund for the International Decade of the World's Indigenous People, its declared objectives - such as the strengthening of international cooperation, the adoption of a declaration on the rights of indigenous peoples and the establishment of a permanent forum - had not been achieved. The work of drafting the declaration had become bogged down since political will was lacking on the part of Governments. Indigenous peoples were demanding that they should be recognized for what they were, namely, peoples; they did not want to be designated by an expression which limited their rights.

49. Mr. PARY (Indian Movement "Tupaj Amaro") said that, after 16 years of negotiations within the Working Group on Indigenous Populations, the drafting of the declaration on the rights of indigenous peoples was stalemated by the objections of Governments from both the North and the South. Clearly, States lacked the political will to resolve urgent problems involving the survival of indigenous peoples. The Western powers had shown themselves incapable of surmounting the fundamental differences between Governments and indigenous peoples over the basic principles and subjective interpretations of the draft's provisions, such as the right to self-determination, the exercise of the collective right to land ownership, permanent sovereignty over natural resources and the legal protection of cultural and intellectual property.

50. The right to self-determination was the central element of the draft declaration. It was an ancestral right belonging to all peoples, and not the exclusive monopoly of States. In order to dispel the fears of those States that viewed self-determination as a threat to their territorial integrity, "Tupaj Amaro" had proposed that the Working Group should add a paragraph to article 3 of the draft declaration to the effect that its provisions were not interpreted as undermining the sovereignty and independence of the national community.

51. Powerful economic and strategic interests lay behind the objections and erroneous interpretations of the provisions of the draft, since the riches of indigenous lands were vitally important to the development of the West. It would be unjust, on the threshold of the twenty-first century, as well as discriminatory, if the international community were to continue neglecting the rights of indigenous peoples. The Commission should therefore extend the mandate of the Working Group so as to enable it to complete its examination of the draft within a reasonable time.

52. As for the permanent forum, it was apparent that the proposals put forward by the indigenous peoples had not been duly taken into account in the report of the open-ended inter-sessional ad hoc working group on a permanent forum for indigenous people (E/CN.4/2000/86). The Indian Movement "Tupaj Amaro" regretted that the document it had

submitted on the mandate, competences and decision-making powers of the forum (E/CN.4/AC.47/2000/3) had not been annexed to the report, as had been decided in plenary. The permanent forum should be a consultative, operational and deliberating body with a broad mandate and sufficient powers to enable it to adopt decisions and formulate recommendations in respect not only of economic, social and cultural rights and the right to development, but also of issues such as land, health and education.

53. Regarding the composition of the forum, indigenous candidates, whether elected or appointed by their grass-roots organizations, should consider themselves as possessing an indigenous identity and possess absolute integrity, as well as demonstrated competence in indigenous affairs. The Indian Movement "Tupaj Amaro" considered that Governments and foreign organizations having nothing to do with the interests of indigenous peoples should not interfere in the nomination of candidates, who could be assessed by the Office of the High Commissioner for Human Rights and then approved by the Economic and Social Council.

54. Ms. NUR (Netherlands Organization for International Development Cooperation) drew attention to the fate of indigenous communities in Indonesia who had been suffering for 30 years as a result of Indonesian State policy. All the rights of those communities were flouted by an unjust and undemocratic policy and legislation designed to preserve State sovereignty over indigenous communities, and to transfer their resources to private corporations owned by a handful of privileged members of the political elite. Violent conflicts had ensued throughout the country. The methods used to exploit natural resources - which prioritized quick returns and showed no respect for local knowledge and traditional practices - had brought about the destruction of the means of subsistence of indigenous communities. Moreover, the latter were seeing their traditional mode of governance destroyed, with the imposition of a village system which disrupted their own decision-making structure. Finally, the presence of large mining corporations constituted a threat to indigenous women; indeed, numerous cases of sexual violence against them had been reported.

55. The Commission should urge the Government of Indonesia immediately to ratify and implement ILO Convention No. 169 concerning indigenous and tribal peoples, to assume responsibility for violations of human rights committed against indigenous communities, to compensate the communities in question and to take the necessary measures to remedy their situation.

56. Mr. BARNES (International Human Rights Association of American Minorities) said that indigenous peoples continued to stand by the current version of the draft declaration under consideration, which contained minimal norms for the recognition and protection of their fundamental rights. Henceforth, the arguments in favour of the version submitted by the indigenous peoples should be included in the reports of the Working Group. The right to self-determination, whatever the level of development, remained the underlying principle of that declaration. A special rapporteur should, moreover, be appointed to report on crisis situations and violations of indigenous peoples' rights. Finally, indigenous peoples should be able to participate effectively in the World Conference against Racism. The establishment of a permanent forum should not result in the exclusion of indigenous peoples from other

United Nations bodies which might be able to assist them in obtaining compensation, nor should it result in the abolition of the working group. Greater transparency was necessary to ensure a broader and more equitable participation of indigenous peoples.

57. Lastly, the speaker - who represented the Indigenous Peoples and Nations Coalition from Alaska - said that the indigenous peoples of Alaska, whose right to self-determination had been denied, would continue to seek its restoration.

58. Mr. HALEPOTA (Interfaith International), noting that some indigenous groups were being threatened with exclusion from the Working Group, on the pretext that there were no indigenous peoples in Africa and Asia, said that success of the group depended precisely on its willingness to protect the world's most underprivileged peoples and to restore the rights of all peoples who were victims of colonialism or neo-colonialism. He supported the recommendations of the Indigenous Caucus in respect of the permanent forum.

59. He also drew attention to the situation of the Sindhis, an indigenous community in the Indus valley and descended from one of the world's oldest civilizations, who were now under threat of extinction from terrorism, persecution, fundamentalism and population transfer. The natural resources of Sindh were being confiscated and exploited for military purposes at a time when poverty and hunger in the region were rife, and the victims were legion. Military expenditure, geared mainly to the pursuit of the nuclear arms race, accounted for 22.47 per cent of the State budget, while the amounts allocated to health and education were 0.47 and 0.14 percent respectively. Thousands of Sindhis were being chased off their ancestral lands by the army, which had imposed a state of siege. The military junta in power in Pakistan was attempting to change the region's identity and geopolitical situation by force, without the slightest regard for the opinions of the indigenous peoples. The Sindhis, who wanted to be able to decide their own future through a referendum supervised by the United Nations, were asking the United Nations to dispatch a mission to Sindh to investigate the continuing human rights violations committed in the area.

60. Mr. CHAKMA (South Asia Human Rights Documentation Centre, SAHRDC) said that if the Commission on Human Rights adopted the proposed draft resolution on the establishment of a permanent forum for indigenous peoples, the Economic and Social Council should allow at least one regional representative of the indigenous peoples of each region to take the floor at the subsequent session to present their views on the forum. The permanent forum must have a broad mandate, and indigenous peoples should be represented in it on an equal footing with Governments. It should also comprise at least 16 members and have its own secretariat, the cost of which was estimated at US$ 1.5 million; it would be shameful if States Members of the United Nations were not to come up with that sum, which would represent only partial restitution for the resources of which the indigenous people had been deprived. He welcomed the Swiss Government's offer to host the permanent forum in Geneva but wished to know whether it would be prepared to provide the necessary premises.

61. With regard to country-specific situations, SAHRDC deplored the fact that the Government of Bangladesh had done little to implement the peace accord it had signed in 1997 with Jana Samhati Samiti. Serious human rights violations were still being committed against the Jummas as a consequence of the absolute impunity enjoyed by the security forces. The

report on the inquiry into the disappearances and killings had yet to be made public. The Office of the High Commissioner for Human Rights should initiate a dialogue with the Government of Bangladesh with a view to ensuring implementation of the peace accord and providing human rights training to law enforcement officials. SAHRDC was, moreover, seriously concerned by the fact that Australia was reportedly threatening to withdraw from the International Convention on the Elimination of All Forms of Racial Discrimination. It was also surprised by the decision taken on 2 June 1999 by the Supreme Court of Nepal prohibiting the use of minority and indigenous languages for local administrative purposes - in flagrant violation of article 27 of the International Covenant on Civil and Political Rights - and hoped that the Government of Nepal would quickly remedy the situation.

62. Mr. DAHL (Inuit Circumpolar Conference) said that his organization, which was playing an active role at the international level in protecting the rights of indigenous peoples, noted that no significant progress had been made in drafting the declaration on the rights of indigenous peoples, since only two of the 45 articles of the draft had been adopted in the course of 16 years. It was thus high time that Governments should make an effort to ensure that a text acceptable to indigenous people was finalized during the International Decade of the World's Indigenous People.

63. Some progress had been made with respect to consideration of the establishment of a permanent forum for indigenous peoples within the United Nations system - another important issue. A draft resolution submitted by Denmark envisaged the establishment of such a body, which would be a subsidiary body of the Economic and Social Council made up of an equal number - at least 16 - government and indigenous representatives serving as independent experts and meeting 10 days each year. The Inuit Circumpolar Conference considered the proposal acceptable, but noted that it failed to mention the establishment of a separate secretariat which was essential.

64. Ms. LEVERGER (France Libertés: Fondation Danielle Mitterand) drew attention to the violation of the human rights of the Mapuche people of Chile, and in particular those of the Lafkenche communities of the province of Arauco. The Mapuche-Lafkenches accounted for 10 per cent of the region's population and were calling for the return of the 100,000 hectares of their land which had been seized, as well as the restoration of their ancestral right to use the coastal area. Foreign capital investment in national forestry companies had brought about the almost complete destruction of ecosystems and maritime companies were daily infringing coastal fishing regulations. By granting concessions to private foreign companies, Chile was violating Act No. 19-253, under which the State must protect lands regarded as indigenous. The Mapuche were also subjected to torture, arbitrary arrest and quasi-permanent surveillance by the civilian police intelligence services.

65. The Commission should urge the Chilean Government to put an immediate end to the repression of such communities, to take steps to return lands to the Mapuche and to establish a truth commission to promote reconciliation with the past. France Libertés urged President Ricardo Lagos's new Government to: commence negotiations without delay with all Mapuche representatives without exception; to outlaw militias acting in the interests of

transnational corporations; to ensure that the law on indigenous people was respected; to punish those responsible for torture; to initiate a process of constitutional recognition of the Mapuche people; and to ratify ILO Convention No. 169.

66. Mr. REYES (Colombia), speaking in exercise of the right to reply, expressed his delegation's surprise and indignation at the allegations of certain speakers who failed to appreciate the consultation process taking place in Colombia with various indigenous communities in implementation of the Constitution and Colombian legislation. He referred to two reports which provided details and clarification of the consultations initiated by the Colombian Government, and in particular with the Uwan communities.

REPORT OF THE SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(a) REPORT AND DRAFT DECISIONS

(b) ELECTION OF MEMBERS

(agenda item 16) (E/CN.4/2000/2-E/CN.4/Sub.2/1999/54; E/CN.4/2000/87, 88 and Add. 1 to 3, and 96; E/CN.4/2000/NGO/52; E/CN.4/2000/Sub.2/1999/17)

67. Mr. HATANO (Chairperson of the Sub-Commission on the Promotion and Protection of Human Rights), introducing the Sub-Commission's annual report (E/CN.4/2000/2-E/CN.4/Sub.2/1999/54) and his report on the work of the Sub-Commission at its fifty-first session (E/CN.4/2000/87), recalled that the name of the Sub-Commission had been changed from "Sub-Commission on Prevention of Discrimination and Protection of Minorities" to "Sub Commission on the Promotion and Protection of Human Rights", in accordance with a decision of the Economic and Social Council. In his capacity as Chairperson of the Sub-Commission's fifty-first session he had stressed three basic principles throughout the debate: punctuality, impartiality and effectiveness, and had sought to adhere strictly to them. The Sub-Commission had held 27 public meetings in which approximately 1,200 people, including some 800 NGO representatives, had participated. It had adopted 30 resolutions and 17 decisions and had approved six statements by the Chairperson. In response to a request of the Commission, the Sub-Commission had established a sessional working group to examine its methods of work; the working group had finalized the "Guidelines for the application by the Sub-Commission on the Promotion and Protection of Human Rights of the rules of procedure of the functional commissions of the Economic and Social Council and other decisions and practices relating thereto" that the Sub-Commission in its decision 1999/114 had decided to transmit to the Commission. Speaking in his personal capacity, he expressed the hope that the Commission would approve the guidelines and recommend to the Economic and Social Council that it should publish and widely disseminate the text in the form of a booklet of the Office of the High Commissioner.

68. With regard to studies, the Sub-Commission had noted the final report on the study on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1999/20) and had recommended to the Commission that it should entrust new special rapporteurs with three studies devoted, respectively, to: the rights of

non-citizens; globalization and its impact on the full enjoyment of all human rights; and reservations to human rights treaties. Regarding the rationalization of its work, the Sub-Commission had not opposed certain of the Bureau's recommendations, namely: that it should serve primarily as the Commission's "think tank"; that the term of office of its members should be reduced and that they should not serve concurrently in posts in the executive branch of their Governments; that the Sub-Commission should not adopt resolutions on the human rights situation in given countries; that it should no longer deal with the 1503 procedure; and that the Working Group on Indigenous Populations should not be abolished until the permanent forum for indigenous peoples was established. On the other hand, the Sub-Commission was strongly opposed to: a reduction in its membership; the election of members being replaced by nominations by the Chairperson of the Commission; a reduction in length of its annual session; and the replacement of the Working Group on Contemporary Forms of Slavery by a new special rapporteur. In light of those reactions, the conclusions reached by the Commission's inter-sessional Working Group on enhancing the effectiveness of the mechanisms of the Commission on Human Rights seemed quite reasonable and balanced and should satisfy the Sub-Commission.

69. Lastly, the cost of the Sub-Commission's annual session had been verified and found to represent approximately one third of the cost of a Commission session, as shown in paragraph 13 of the report (E/CN.4/2000/87).

70. Mr. QAZI (Pakistan) stressed the unique nature of the Sub-Commission which, as a body of independent experts representing different cultures, civilizations and legal systems, constituted a reservoir of expertise and knowledge unparalleled in the United Nations system. Unlike the treaty monitoring bodies, the Sub-Commission was able to consider all issues relating in some way or other to human rights - which had inevitably led to some dissipation of efforts over time. Aware of the problem, the Sub-Commission had made efforts to rationalize its agenda and to reconsider its methods of work.

71. Pakistan had participated actively in the process of enhancing the effectiveness of the Commission's mechanisms and was pleased that discussion of the matter had led to the conclusion that the Sub-Commission was indispensable as the Commission's think tank and that it should continue to serve as a forum for NGOs. His delegation was convinced that the Sub-Commission could continue to be the source of important studies and instruments, such as the draft convention on the protection of all persons from enforced and involuntary disappearances, which was before the Commission. In order to enable the Sub-Commission to carry out its mandate even more efficiently, the rules of procedure elaborated for it by Mr. Hatano should be finalized and adopted at the earliest opportunity, and the Sub-Commission should continue to review its methods of work regularly. It should also further rationalize its agenda by merging or reclustering certain items and adopt stringent criteria to ensure that studies were carried out within very definite time-limits. Before drafting new instruments, it should also carefully determine: the precise nature of the instrument in question; what gap it would fill; and how much time was needed to finalize it. States members of the Commission, for their part, should endeavour to provide the Sub-Commission with the resources required once all requirements had been met.

72. Pakistan would continue to follow the work of the Sub-Commission with interest and cooperate with it, since it was convinced that the Sub-Commission would, as in the past, play an important role in the promotion and protection of human rights, as well as in the evolution of the concept of human rights.

73. Mr. REN Yisheng (China) recalled that, at its fifty-first session, the Sub-Commission had adopted resolution 1999/2 on the question of the violation of human rights and fundamental freedoms in all countries, in which it reaffirmed the norms governing contemporary international relations and the principles of international law embodied in the Charter of the United Nations. In particular, the Sub-Commission had prohibited interference in the sovereignty of a State under any pretext, as well as recourse to force on allegedly humanitarian grounds. In fact, only the Security Council had the mandate to deal with issues relating to international peace and security. The Sub-Commission had also adopted a resolution on the promotion of dialogues on human rights issues and another on the right to development - thus demonstrating that it was sensitive to the problems of developing countries.

74. His delegation was convinced that the Sub-Commission could play an important role in the field of human rights as the Commission's subsidiary body of experts. In that capacity, it should carry out studies and refrain from deliberating on human rights situations in specific countries. The recommendation of the Working Group on enhancing the effectiveness of the Commission's mechanisms, namely, that the Sub-Commission should not adopt resolutions on country situations should enable the Sub-Commission to increase its efficiency by eliminating confrontation from its deliberations in the interests of dialogue and cooperation. However, the Working Group recommended that the Sub-Commission should continue to be able to debate situations not being considered by the Commission, and to discuss urgent matters involving serious violations of human rights in any country; the Government of China therefore hoped that the Sub-Commission would demonstrate due prudence by avoiding any politicization.

75. Furthermore, his delegation approved the Working Group's recommendation that the members of the Sub-Commission should continue to be elected by the Commission, and that they should remain 26 in number. Since they were from five different continents, the experts were able to represent different cultures and values. Lastly, his delegation hoped that the Working Group's recommended reduction in the duration of the session to three weeks would enhance the effectiveness of the Sub-Commission and not adversely affect the discussion of certain issues of particular concern to developing countries such as economic, social and cultural rights, the right to development and the rights of particular groups such as women, children, minorities and indigenous peoples.

76. Mr. LITTLECHILD (International Organisation of Indigenous Resource Development), speaking also on behalf of the Grand Council of the Crees and the Napguana Association, said that it was a matter of concern that certain States wished to abolish the Working Group on Indigenous Populations, considering that it would lose its usefulness once a permanent forum for indigenous peoples was established within the United Nations system. The Working Group was in fact the only forum in which indigenous peoples could raise issues of concern to them, and nothing should prevent it from coexisting alongside the proposed permanent forum. However, experience had shown that the five days of meetings allocated to the Working Group were no longer sufficient to enable it to fulfil its mandate. Moreover, the Working Group comprised

experts serving in their individual capacities, and not one of them was indigenous. That point must be taken into account in deciding on the membership of the new forum so as to ensure equal representation of different cultures and geographic diversities. The new forum should also be allocated sufficient financial and human resources to enable it to fulfil an expanded mandate extending beyond the consideration of human rights issues, as proposed. If the Commission decided to establish the permanent forum, his organization would reserve the right to continue to press for an extended mandate so that it could deal not only with indigenous issues but also with indigenous peoples. It was also of the view that the appointment of a special rapporteur on indigenous peoples would only hinder the establishment of a permanent forum for indigenous peoples within the United Nations system.

77. Lastly, his organization was convinced that the Working Group on Indigenous Populations with its specific mandate should be maintained and not abolished in favour of the permanent forum for indigenous peoples or a special rapporteur. It would continue to contribute to efforts to establish a permanent forum for indigenous peoples that would acknowledge the value of indigenous peoples and reflect their cultural and geographic diversities.

78. Mr. SALDAMANDO (International Indian Treaty Council) urged that the study on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1999/20) should be given the widest publicity and that the Sub-Commission, as well as the Commission, should implement the recommendations it contained - in particular in respect of the convening of a workshop for follow-up. Such a workshop would enable indigenous peoples and States to arrive at an agreement on the urgent and as yet unresolved issue of the non-observance of treaties entered into in good faith between indigenous peoples and States.

79. Moreover, his organization was opposed to the abolition of the Working Group on Indigenous Populations and therefore welcomed the draft resolution submitted by New Zealand which requested adequate resources and assistance for the Working Group to enable it to discharge its functions. The Commission should also allow the Working Group to meet for 10 days rather than five as at present so that it could do it work properly.

80. His organization would support all efforts to strengthen activities undertaken within the framework of the International Decade of the World's Indigenous Peoples.

81. The CHAIRPERSON invited the members of the Commission to take up agenda item 16 (b) entitled "Election of members", in connection with which the Commission had before it a note by the Secretary-General (E/CN.4/2000/88 and Add.1 to 3) containing data on all nominated candidates. Since Benin and Kazakhstan had decided to withdraw their candidates, the Secretariat had removed their names from the list of candidates nominated by the African and Eastern European States.

82. The Commission was invited to elect 13 members of the Sub-Commission - as well as their alternates, where necessary - as follows: 4 members from African States, 2 from Asian States, 2 from Eastern European States, 2 from Latin American and Caribbean States and 3 from Western European and other States. Pursuant to rule 67 of the rules of procedure of the functional commissions of the Economic and Social Council, those candidates obtaining in the

first ballot a majority of the votes cast and the largest number of votes would be elected. If the number of candidates obtaining such majority was less than the number of places to be filled, additional ballots would be held to fill the remaining places.

83. At the invitation of the Chairperson, Mr. Chowdhury (Bangladesh) and Mr. Peréz-Hernández y Torre (Spain) acted as tellers.

84. A vote was taken by secret ballot.

Number of ballot papers:	53
Invalid ballots:	0
Number of valid ballots:	53
Abstentions:	0
Required majority:	27

Number of votes obtained:

AFRICAN STATES

Mr. Jody Kollapen (South Africa)	16
Ms. Leïla Zerrougui (Algeria)	31
Mr. Mounir Zahran (Egypt)	24
Mr. Fisseha Yimer (Ethiopia)	29
Mr. Georges Razanakoto	
*Ms. Arlette Ramaroson (Madagascar)	12
Ms. Halima Embarek Warzazi (Morocco)	31
Mr. Godfrey Bayour Preware	
*Ms. Christy Ezim Mbonu (Nigeria)	24
Mr. Ahmed M.O. El Mutfi (Sudan)	11
Mr. Lazhar Bououny	
*Ms. Hamida M'Rabet Labidi (Tunisia)	26

85. Having obtained the required majority and the largest number of votes, Ms. Zerrougui (Algeria), Ms. Warzazi (Morocco) and Mr. Yimer (Ethiopia) were elected members of the Sub-Commission for a term of office of four years.

ASIAN STATES

Mr. Yozo Yokota

*Ms. Yoshiko Terao (Japan) 47

Mr. Sami A. Bekdash (Lebanon) 6

Mr. Kapil Shrestha (Nepal) 7

Mr. Soo Gil Park

*Ms. Chin Sung Chung (Republic of Korea) 43

86. Having obtained the required majority and the largest number of votes, Mr. Yokota (Japan) and Mr. Park (Republic of Korea) were elected members of the Sub-Commission for a term of office of four years.

EASTERN EUROPEAN STATES

Mr. Yuri Barsegov

*Mr. Ashot Melik-Shahnazarian (Armenia) 19

Mr. Rovshan Mustafayev

*Mr. Tofig Musayev (Azerbaidjan) 14

Mr. Stanislav Ogurtsov (Belarus) 32

Ms. Iulia Antoanella Motoc

*Ms. Victoria Sandru (Romania) 36

87. Having obtained the required majority and the largest number of votes, Ms. Motoc (Romania) and Mr. Ogurtsov (Belarus) were elected members of the Sub-Commission for a term of office of four years.

LATIN AMERICAN AND CARIBBEAN STATES

Mr. Miguel J. Alfonso Martínez

*Mr. Juan Antonio Fernández Palacios (Cuba) 38

Ms. Soledad Villagra (Paraguay) 27

Mr. Manuel Rodríguez-Cuadros (Peru) 34

88. Having obtained the required majority and the largest number of votes, Mr. Alfonso Martínez (Cuba) and Mr. Rodríguez-Cuadros (Peru) were elected members of the Sub-Commission for a term office of four years.

WESTERN EUROPEAN AND OTHER STATES

Mr. David Weissbrodt

*Ms. Barbara Frey (United States of America) 37

Mr. Asbjørn Eide

*Mr. Jan Helgesen (Norway) 42

Mr. Fried Van Hoof

*Ms. Lammy Betten (Netherlands) 43

Mr. Gündüz Aktan

*Mr. Bülent Meric (Turkey) 25

89. Having obtained the required majority and the largest number of votes, Mr. Van Hoof (Netherlands), Mr. Eide (Norway) and Mr. Weissbrodt (United States) were elected members of the Sub-Commission for a term of office of four years.

90. The CHAIRPERSON said that, as the number of candidates who had obtained the required majority from African States was less than the number of places to be filled, a new ballot would be held to fill the remaining vacancy.

PROMOTION AND PROTECTION OF HUMAN RIGHTS:

(a) STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

(b) HUMAN RIGHTS DEFENDERS

(c) INFORMATION AND EDUCATION

(d) SCIENCE AND ENVIRONMENT

(agenda item 17) (E/CN.4/2000/89-97 and Add.1, 121 and 145; E/CN.4/2000/NGO/7, 17, 23, 97, 107, 110, 121, 130-132, 134, 135 and 144; E/CN.4/1999/12 and Add.1; E/CN.4/Sub.2/1999/28 and Corr.1; E/CN.4/1998/84 and Add.1; E/CN.4/1997/105)

91. Mr. KOBAYASHI (Japan) said that, rather than criticizing or isolating countries which did not fully respect human rights, they should be encouraged to move forward, providing they had shown a willingness to change. It was primarily on States that the responsibility for promoting and protecting human rights and fundamental freedoms lay, and to assist them in that task the United Nations had drawn up various international human rights instruments. In June 1999, Japan had acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; it was now a party to the six main instruments and urged all Governments that had not already done so to ratify or accede to them as well. His Government also stressed the importance of implementing those instruments, and was determined to continue to perform its obligations under them.

92. His delegation also wished to reiterate the importance of the role played by intergovernmental and non-governmental organizations in the promotion and protection of human rights. Even after the adoption of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, it was clear that human rights defenders were still being threatened and intimidated, if not killed. His delegation therefore fully supported the draft resolution to be submitted by the Norwegian delegation on that matter, which requested that the Secretary-General appoint a special representative on human rights defenders.

93. With regard to the death penalty - which would be the subject of a draft resolution by the European Union - the Japanese delegation considered that each State should carefully examine the question of whether it should be maintained or abolished in the light of the national crime rate and penal system. He recalled that the European Union had withdrawn a similar draft resolution at the fifty-fourth session of the General Assembly in 1999 owing to the lack of international consensus on the matter.

94. He stressed the important role played by human rights education in the promotion and protection of human rights and in the creation of a human rights culture. Such had been the conclusion reached by the inter-sessional workshop on national plans of action for human rights education in the Asia and Pacific region organized by the Office of the High Commissioner for Human Rights and hosted by Japan.

95. Mr. MENDONÇA E MOURA (Portugal), speaking on agenda item 17 (b) on behalf of the countries of the European Union and the associated countries of Central and Eastern Europe - Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia - as well as Cyprus, Malta and Turkey, paid tribute to all those throughout the world who devoted themselves to the defence and promotion of human rights, whether as individuals or as members of NGOs. At the local level, they kept the public informed of the rights and freedoms enshrined in international instruments and communicated the aspirations of civil society to Governments. The European Union was grateful to all those courageous

individuals, whoever they might be, who campaigned for universal rights, often risking their lives in the process. The European Union urged them to continue their efforts to promote human rights with the same determination, thus contributing to the elimination of human rights violations.

96. Human rights defenders denounced situations that many States preferred to hide; they sought compensation for victims of violations and fought against impunity. For that very reason, they were often subject to reprisals on the part of States not fulfilling their obligation to promote and protect human rights and fundamental freedoms. If the role of human rights defenders was to denounce violations, the task of the international community must be to ensure that their voices were heard and their rights respected. The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms - adopted by the General Assembly in 1998 - had served to provide recognition for the work of human rights defenders, whether they were anonymous individuals or well-known organizations. The Declaration did not create special rights, but rather reaffirmed that the rights of those who defended the rights of others should also be respected and protected. The question now was one of ensuring its effective implementation, and the European Union was of the view that the Commission on Human Rights should create a special mechanism for that purpose. Such a mechanism would be entrusted with collecting information on violations of the right of human rights defenders to promote and protect human rights, and with formulating an appropriate response. It would also examine measures or practices that hampered the activities of human rights defenders, and should be able to recommend the provision of technical assistance by the Office of the High Commissioner. The latter had an important role to play in the implementation and dissemination of the Declaration, but a special rapporteur or representative would need the support not only of the Office of the High Commissioner, but of all States as well.

97. Most advances in the field of human rights were due to the activities of human rights defenders. It was thus crucial to realize, respect and promote the rights and freedoms enshrined in the Declaration in all countries, since any attempt to hamper the activities of human rights defenders amounted to a denial of the universality and indivisibility of those rights.

98. Mr. SEYDOU (Niger) said that the new Constitution adopted in Niger following a referendum held on 10 July 1999 incorporated the rights and freedoms enshrined in the various international instruments ratified by his country. Upon assuming their functions, the new President of the Republic, elected in November 1999, together with his Prime Minister, had undertaken to respect and protect the human rights and freedoms of citizens. With freedom of thought and speech freely exercised in Niger, human rights organizations were multiplying and thriving. The Government of Niger fully associated itself with article 1 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, according to which "everyone [had] the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms". To that end, human rights defenders must have the necessary resources at their disposal. The Government of Niger thus welcomed the activities undertaken by the Office of the High Commissioner for Human Rights in the fields of human rights education, information and training. It hoped that concerted efforts would be made in that regard in Niger to promote the consolidation of

democracy. However, democracy was not possible in a context of unrest, and his delegation therefore welcomed the adoption by the General Assembly in its resolution 53/243 of the Declaration and Programme of Action on a culture of peace. It was in that spirit that Niger had - for the fifth year running - celebrated National Harmony Day on 14 April.

99. Despite its willingness to promote and protect human rights at all levels, the Government of Niger was forced to contend with enormous economic and financial difficulties which hampered its work. The financing by the World Bank of the construction of four new penitentiaries would enable the problem of prison overcrowding to be resolved. The Penal Code and Code of Criminal Procedure had, moreover, been revised. The new Penal Code provided, inter alia for the punishment of genocide, crimes against humanity and war crimes - pending Niger's ratification of the Statute of the International Criminal Court - as well as severe penalties for persons guilty of sexual harassment. Moreover, due process of law had been strengthened and pre-trial detention was no longer unlimited. As for the death penalty, it had been abolished de facto and de jure in Niger, given that it had not been imposed by the courts or applied for a good many years.

100. Mr. AVILA (Mexico) said that Mexico had worked actively for the adoption by the General Assembly of the Declaration on Human Rights Defenders and was doing its utmost to ensure its implementation. It therefore welcomed with interest Norway's proposal that the Commission should establish a mechanism for that purpose.

101. In 1989, an office had been set up within the secretariat of the Ministry of the Interior to deal with complaints from human rights defenders and journalists who had received threats and requested protection. The National Human Rights Commission, too, dealt with such matters. At the same time, the Government facilitated the work of all who wished to observe the human rights situation in Mexico. More than 5,000 foreign representatives of NGOs, the media and other bodies had visited Chiapas since the beginning of the conflict there. Moreover, national and, for the first time, international observers would be monitoring the presidential elections to be held in July 2000.

102. He noted that the death penalty was the very negation of the most basic human right, the right to life, and the Mexican Government would continue its efforts to bring about its abolition. He urged those States that had not yet abolished it not to impose it on minors, pregnant women or disabled persons and not to extradite anyone to countries where they risked being sentenced to death. The Office of the High Commissioner should launch another international campaign for the abolition of what was a repugnant practice.

103. Noting with concern the tendency of some countries to sentence foreign nationals to death in disregard of their rights under article 36 of the Vienna Convention on Consular Relations, Mexico welcomed the advisory opinion handed down by the Inter-American Court of Human Rights reaffirming the validity of the principle that any person who was arrested should be informed of their rights and was entitled to notify the authorities of their country that they had been detained and to receive the services of a lawyer, and emphasizing the obligation to respect that right. The advisory opinion was an important contribution to international case law in that

area and to the protection of the human rights of foreigners detained in other countries. His delegation would again co-sponsor the draft resolution on capital punishment submitted by the European Union.

104. Mr. GOLEDZINOWSKI (Observer for Australia) welcomed Norway's initiative on behalf of human rights defenders and hoped that the Commission would adopt the resolution so that they would be able to work in complete safety anywhere in the world.

105. His delegation noted that the concept of good governance, which had emerged in recent years and was in a way related to globalization and poverty, had been mentioned for the first time in the Commission, notably by the Secretary-General in his statement. Australia and four other countries - Chile, Poland, the Republic of Korea and South Africa - had therefore decided to submit a resolution on the subject, emphasizing several basic principles. The first was that the quality of governance did indeed affect the enjoyment of human rights and that it was therefore appropriate for the Commission to concern itself with the subject. The second was that the reinforcement of good governance was a continuous process for all Governments. The third was that there were no internationally recognized criteria of good governance; it was up to States themselves to formulate them in the light of their own priorities and goals. The fourth was that the quality of the international environment influenced the results obtained by Governments in the area of human rights but that the State's role at the national level was equally important. The fifth and most important principle was that cooperation, assistance - where necessary - and exchanges of experiences on the subject were the best means of promoting better governance in all countries.

106. His delegation believed that the Commission could and should embark upon an enlightening discussion of the matter on the basis of those principles and take the necessary decisions, as it had done in the case of human rights defenders.

107. Ms. KUCURADI (Observer for Turkey) said that there was a widespread notion that the aim of human rights was to protect the individual against the State and that the purpose of human rights education was to teach individuals their rights so that they could defend them if necessary. The resulting approach to human rights education was based on international and national human rights legislation and lacked any ethical dimension. Yet human rights education should aim not only to promote an understanding of individual rights but above all to inculcate in people a sincere will to protect human rights per se and provide everyone with sufficient knowledge to be able to decide how to deal with real life situations, in order to prevent human rights violations.

108. Turkey's National Committee for the United Nations Decade for Human Rights Education, established in 1998 and comprising representatives from several ministries and human rights NGOs, and prominent persons known for their work in that field, had therefore drawn up a Human Rights Education Programme for Turkey, in implementation of the Plan of Action for the United Nations Decade for Human Rights Education. The target groups were teachers giving courses on human rights, law enforcement officers, the media, members of human rights NGOs, social workers and the staff of community centres in economically and socially deprived urban areas.

109. Under that programme, the Committee had suggested that the training provided in Turkey's 26 police schools should be extended from nine months to two years and that the training programme should consist of three main parts, dealing with ethical and professional aspects and with the application of human rights in specific situations. The relevant bill had been approved by the Council of Ministers and submitted to the National Assembly. It had also been suggested that the Government should establish a prison staff training centre, and the Ministry of Justice was currently preparing a two-year pre-service training programme for prison guards, incorporating training in humanist and ethical principles.

110. The Committee had also asked a working group of scientists to revise all primary and secondary school social and human sciences textbooks from the standpoint of human rights; to revise the in-service training programme for human rights teachers in primary and secondary schools; to draw up a framework for a 10-year programme for street children; to revise the teaching material used in human rights courses for the gendarmerie; to develop a training programme for NGO trainers wishing to provide human rights education; and to organize a series of seminars for members of the Journalists' Association of Turkey.

111. The Committee hoped that the programme would make it possible, in the not too distant future, to solve a considerable number of the human rights problems facing Turkey.

112. Mr. SEE Chak Mun (Observer for Singapore) said that the European Union's draft resolution on the death penalty called on States as it did every year not to execute any person as long as any related legal procedures at the international or national level were pending, not to allow the extradition of any person to a country in which he or she risked being sentenced to death and to establish a moratorium on executions with a view to completely abolishing the death penalty. His delegation opposed the draft because it could seriously prejudice the authority of national jurisdictions to carry out punishment in accordance with domestic law. The draft resolution sought to bring unwarranted pressure to bear on States that retained the death penalty.

113. Capital punishment was a matter of criminal justice, not human rights, since the issues were victims' rights and the right of the community to live in peace and security. States must be free to implement the policies and criminal measures necessary to protect the rights of victims and deter crime, and to decide for themselves whether to retain or abolish the death penalty, taking into account the values of its people, the crime situation and crime policy. States also had the right to impose the death penalty for the most serious crimes, as long as they respected the appropriate judicial safeguards - a right that was explicitly recognized in article 6, paragraph 2 of the International Covenant on Civil and Political Rights. Lastly, a moratorium on capital punishment would deprive States of an important criminal justice tool to deter the most serious crimes, and of their right to decide the most effective means of dealing with such crimes.

114. He recalled that, at the fifty-fourth session of the General Assembly in the face of opposition from a large number of delegations, the European Union had withdrawn a similar draft resolution. There was therefore no reason to raise the same issue in the Commission on Human Rights, which was merely a subsidiary body with only 53 members. There was no international consensus on the abolition of the death penalty and his delegation questioned the European Union's insistence on tabling the same draft resolution year after year, particularly at a

time when the Commission was trying to rationalize its work and mandate. The issue was clearly one that fell within the purview of each State, which had the right to protect its citizens against crime and ensure law and order.

115. It was not for one group of countries to impose its own values and judicial systems on others that were subject to the rule of law and where the death penalty was retained by the will of the people. His delegation therefore urged the members of the Commission not to support the European Union's draft resolution.

116. Ms. PEJIC (International Committee of the Red Cross) said that the issue of fundamental standards of humanity had been on the international agenda for several years because there was a perception that existing standards of international humanitarian law on human rights did not give adequate protection to persons caught in the "grey zone" - between peacetime and situations of armed conflict. ICRC believed that the numerous violations and abuses perpetrated during armed conflicts were not due chiefly to the lack of legal standards but to the failure of State and non-State actors to comply with the principles and rules of international humanitarian and human rights law. The Commission should therefore look into the causes of non-compliance and ways of strengthening implementation of the existing law instead of elaborating new standards.

117. ICRC's preference was based on several developments: the establishment and work of the two international criminal tribunals, whose case law had been important in setting standards for the behaviour of State and non-State actors; the adoption in 1998 of the Rome Statute of the International Criminal Court, which defined genocide, war crimes and crimes against humanity as serious crimes of concern to the international community as a whole and reaffirmed the principle of individual criminal responsibility; the Human Rights Committee's current work on the drafting of a General Comment to article 4 of the International Covenant on Civil and Political Rights, which should shed light on the issue of non-derogable rights and provide an authoritative interpretation of States' obligations in times of emergency; the emerging application by States of the principle of universal jurisdiction, which was provided for both in treaty and in international customary law, to several categories of grave breaches of the 1949 Geneva Conventions. Lastly, it was based on ICRC's own study of the customary rules of law that were binding on the parties to internal armed conflicts, which would, when it was published in 2001, aid the examination of fundamental standards of humanity and contribute to the enhanced legal protection of persons affected by internal armed conflict.

118. ICRC believed that any further work on fundamental standards of humanity should be seen as a process aimed at reaffirming existing international humanitarian and human rights norms, with a view to facilitating their dissemination and implementation. Meanwhile, ICRC called on Governments to take all feasible steps to strengthen the protection of persons both in peacetime and in situations of armed conflict by ratifying the relevant international treaties and ensuring their full implementation. In particular, it urged States to abide by their obligations under the Geneva Conventions and their two Additional Protocols, to make war crimes offences under domestic law and to provide for universal jurisdiction over acts constituting war crimes. Lastly, ICRC urged States to ratify the Rome Statute of the International Criminal Court, thereby providing the international community with a mechanism for punishing and deterring war crimes, as well as other crimes under international law.

119. Ms. CASSAM (United Nations Educational, Scientific and Cultural Organization) said that UNESCO had a particular duty, as a specialized agency of the United Nations, to motivate creators, thinkers, scientists and teachers to build the defences of peace in the minds of men, respect the universal humanist values defined in the Universal Declaration of Human Rights and become the intellectual and moral conscience of mankind.

120. It was in that context that UNESCO had prepared its "Culture of Peace" project, based, inter alia, on the principles established in the Charter of the United Nations and on respect for human rights. The defence and protection of human rights was one of the pillars of the promotion of a culture of peace. In January 1998, the United Nations General Assembly had proclaimed the year 2000 International Year for the Culture of Peace and had appointed UNESCO as the focal point for the system-wide coordination of events contributing to a movement away from the resolution of conflicts by violence towards more modern approaches and mechanisms for achieving lasting peace by calling for the active participation of all the citizens of the planet.

121. In specific terms, UNESCO's Communication, Information and Informatics Sector was helping to restore the media in East Timor. To that end, in cooperation with the United Nations Transitional Administration in East Timor (UNTAET) and the South-East Asian Press Alliance (SEAPA), UNESCO had invited international donors to help fund a plan of action to build up free and pluralistic media, and was working to reinforce radio networks, publish independent East Timor's first newspaper, establish a legal framework for the media and train local journalists. It had also joined forces with the World Association of Newspapers to create an independent press.

122. As part of its "Disarming History" project, UNESCO was planning to publish, in cooperation with its educational partners in each region, guidelines to help with textbook revision and teacher training in the field of history teaching. The aim of the project was to ensure that, instead of glorifying war, history books explained why wars had taken place and how they could be eliminated forever, through understanding, cooperation, solidarity and integration. Meetings and workshops had been held in Colombia (for the Andean countries), Poland (on the changing situation in Eastern and Central European countries), Mali (on the history of Africa) and Sweden (on South-East European integration). The project should help to envisage and build a more peaceful future, at least for coming generations.

123. The Commission's special meeting on Chechnya had shown that it, too, could speak as the "moral conscience of mankind".

124. Ms. THOMPSON (International Service for Human Rights), speaking also on behalf of 13 other organizations (Baha'i International Community, Colombian Commission of Jurists, Franciscans International, Friends World Committee for Consultation, Inter-African Committee, International Commission of Jurists, International Confederation of Free Trade Unions, International League for Human Rights, International Movement for Fraternal Union among Races and Peoples, Lutheran World Federation, World Young Women's Christian Association, Human Rights Internet, International Federation of Action of Christians for the Abolition of Torture), called on the members of the Commission to establish a post of special rapporteur on human rights defenders. A special procedure was urgently required because human rights

defenders in all regions of the world, were suffering both brutal and subtle forms of repression as a result of their work to promote and protect universally recognized human rights. There was no United Nations human rights mechanism to monitor the violations of which they were victims or that they could appeal to for assistance.

125. The Commission's previous appeals that existing mechanisms should deal with the situation of human rights defenders had not solved the problem. Furthermore, in response to Commission resolution 1999/6, the special rapporteurs and representatives and the experts and chairpersons of working groups of the special procedures had stated that the nature of the problem was not one that could be covered satisfactorily by them alone in the discharge of their specific mandates.

126. NGOs, existing mechanisms and some States had argued for several years that the new mechanism was required to study the problems and encourage cooperation activities with Governments, especially in improving the implementation of the Declaration on Human Rights Defenders. That would also enhance the ability of the United Nations to act effectively and expeditiously in that regard. The Declaration, adopted in December 1998 by the General Assembly, covered all the rights necessary for individuals, groups and associations to promote respect for, and foster knowledge of, human rights and fundamental freedoms at the national and international levels, but no mechanism had been established to promote and monitor its universal implementation.

127. It was therefore essential for the Commission to appoint a special rapporteur on human rights defenders, to propose ways of improving the implementation of the Declaration, examine the measures and practices that enhanced or impeded the work of human rights defenders and devise methods better to protect the rights of human rights defenders. Such a mechanism would be vital in upholding some of the fundamental purposes and principles of the United Nations in the promotion of peace, security, development, international law and human rights.

The meeting rose at 7.05 p.m.